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Emergency Response

## West Virginia Spill Sparks Demands For Tougher Chemical Safety Standards

By [Mark Niquette](#), [Jim Snyder](#) and [Mark Drajem](#)

Jan. 15 — A chemical spill that left 300,000 people in West Virginia without drinking water is reviving calls for more stringent regulation of thousands of chemical storage sites in the U.S., especially those near water supplies.

The Freedom Industries Inc. complex in Charleston that leaked the chemical 4-methylcyclohexane methanol was subject to a patchwork of federal and state regulations that allowed hazardous materials to be stored less than two miles upstream from a drinking water treatment facility.

“Our legislature is in session, so the legislature should take action,” said Sen. Jay Rockefeller (D-W.Va.). “But if they don’t, then we have to get Congress all over it.”

### State Inventory Planned

The state is preparing an inventory of similar facilities in the state where there is no manufacturing or other activity that would require a permit, said Randy Huffman, West Virginia’s secretary of environmental protection. Officials also will develop legislation outlining needed regulatory changes, including storage tank setbacks for facilities, he said.

“It gives you enough distance between the potential risk and the vulnerable asset to be able to go in and to respond with some kind of remediation or some kind of emergency response,” Huffman told reporters Jan. 13 in Charleston.

Forcing chemical plants or storage facilities to move away from rivers would be no easy task. Along the Kanawha River are chemical plants of Praxair Inc. and Bayer AG that dwarf the size and complexity of the Freedom Industries facility.

And it isn’t just location that matters. The Freedom Industries plant in Charleston was so old that

its owners were looking to shut it down before the spill, according to state officials.

### Nine Counties Affected

Residents in nine West Virginia counties were ordered not to drink, cook or bathe with municipal water after about 7,500 gallons of the chemical, which is used in coal processing, leaked Jan. 9 from a tank near the Elk River, upstream of a treatment plant for the West Virginia division of American Water Works Co.

Officials began lifting the ban Jan. 13 in zones starting with Charleston, the state capital, after testing found levels of the chemical 4-methylcyclohexane methanol falling below 1 part per million. Federal authorities “do not anticipate any health effects from these levels,” the company said in a statement. It recommended that residents flush water pipes and appliances such as ice makers to purge any residues of the chemical.

An estimated 35,000 residents in Charleston had water restored as of early Jan. 14, West Virginia American Water said.

The leak was detected by neighbors who smelled a licorice-like odor beginning at 8:15 a.m. on Jan. 9. State officials ordered the 14 above-ground storage tanks on the site emptied to prevent further spills.

The chemicals flowed through a hole about an inch across, according to Mike Dorsey, head of the homeland security office in the West Virginia Department of Environmental Protection.

A message left with a plant spokeswoman seeking comment wasn't returned.

Gary Southern, president of Freedom Industries, based in Charleston, apologized for the spill on Jan. 10 and said the company was working with state and federal officials.

### Tens of Thousands of Storage Tanks

There are potentially tens of thousands of storage tanks in communities around the U.S. filled with chlorine, natural gas and other materials, and states are primarily responsible for their safety, said Sheldon Krimsky, an environmental policy professor at Tufts University in Medford, Mass.

Federal laws should require more rigorous testing of hazardous chemicals to ensure they don't pose health risks, Krimsky said.

“They are riding blind by saying, ‘OK, if we can get it down to one part per million that should be safe enough,’ ” Krimsky said in a phone interview. “They don't really know.”

Democrats on the House Energy and Commerce Committee on Jan. 13 asked the panel's Republicans to convene a hearing “to examine the regulatory gaps that this incident has exposed in the nation's toxic chemical control laws.”

## Democrats Urge Review of Law

Reps. Henry Waxman (D-Calif.) and Paul Tonko (D-N.Y.) said there should be a review of why the law allowed the chemical involved in the West Virginia spill to go untested for almost 40 years.

“We should not have to wait for a major contamination event to learn the most basic information about a toxic chemical in commerce,” Waxman and Tonko said in a letter to Rep. John Shimkus (R-Ill.), chairman of the Energy and Commerce Subcommittee on Environment and the Economy.

The Energy and Commerce Committee is “actively monitoring the federal investigation and working to fully obtain the facts surrounding situation,” Charlotte Baker, a spokeswoman for committee Republicans, said in response to the Democrats’ letter.

House Speaker John Boehner (R-Ohio) said instead of more action from Congress, those responsible for the spill should be held accountable.

“We have enough regulations on the books, and what this administration ought to be doing is doing their jobs,” he said.

Some southern Ohio utilities near Boehner’s congressional district draw drinking from the Ohio River, which has been affected by the spill.

## Council Calls for Coordination

The American Chemistry Council, whose members include Eastman Chemical Co. and Dow Chemical Co., said federal, state and local agencies should improve their coordination to ensure current laws are enforced.

“Essentially we think a good place to start would be to see if the current regulations are being followed or being implemented properly,” spokesman Scott Jensen said in an e-mail. “And if not, we should focus on finding ways to improve implementation, which we think could probably be done through better coordination and communication.”

Federal authorities, including the U.S. Chemical Safety Board and the Justice Department, opened probes into the spill.

“If our investigation reveals that federal criminal laws were violated, we will move rapidly to hold the wrongdoers accountable,” Booth Goodwin, the U.S. attorney for the Southern District of West Virginia, said Jan. 13 in a statement. “Our drinking water is not something you can take chances with, and this mess can never be allowed to happen again.”

The Greater Cincinnati Water Works, which serves 1.1 million people, closed intakes from the Ohio River—which is fed by the Kanawha and Elk rivers—Jan. 14 until the spill passed,

according to officials. The plant will use its two-day supply of treated water and a groundwater treatment facility as needed, the officials said.

Louisville Water Co., which is further downstream from Cincinnati, said its filtration system can handle the traces of the chemical that are expected in that area later this week, and that carbon filtration can be used to remove the licorice smell.

#### Utilities Lack Authority

While federal laws such as the Safe Water Drinking Act require utilities to assess potential upstream pollution threats, it gives them little authority to require activities that would minimize risks, said Erik Olson, an attorney who specializes in water and health issues at the Natural Resources Defense Council.

He said the split in regulatory responsibilities can leave loopholes that accidents like the spill in West Virginia expose. "There is virtually no accountability here," Olson said in a phone interview.

More information is needed about the risks of chemicals on the market, and regulators need more authority to take action, such as ordering storage tanks be located away from water sources, said Andy Igrejas, director of Safer Chemicals, Healthy Families, a Washington coalition of health and safety groups pushing for tighter rules.

"This kind of disaster really does show you what all these things really mean," Igrejas said in a telephone interview. "We don't know enough, and we don't know it quickly enough, about a chemical that could cause the drinking water for 300,000 people to be taken offline."

#### State Inspections

Rockefeller had said the last time the plant was inspected was in 1991, though a review of records shows the state's Department of Environmental Protection checked the facility in 1999 and 2002 because it stored petroleum products, department spokesman Tom Aluisse told Bloomberg.

The department's division of air quality also visited the plant in April 2010 in response to a complaint by a resident nearby about a licorice odor that "leaves a bad taste in your mouth," according to a report provided by the state. No violation was found, and the state also checked in 2012 to determine whether an air permit was required, Aluisse said.

West Virginia doesn't require inspection of storage tanks with chemicals such as the one that leaked, and there should be such regulations in place, said Larry Zuspan, who runs the local emergency planning committee in Charleston.

Zuspan said he didn't know the storage tank was even there until the spill.

"For that magnitude of product that's stored there, and where it was, it's on a waterway, yeah, I

think that's going to require some inspections,” Zuspan, administrator of the Kanawha Putnam Emergency Planning Committee, said by phone.

### Spill Exposes Weaknesses

The two lessons from the West Virginia spill are to be more vigilant about ensuring the structural integrity of tanks holding hazardous chemicals near bodies of water and to focus more resources on detection and monitoring, said James Salzman, a professor of law and environmental policy at Duke University.

The spill exposes a weakness in the nation's system for guarding against contaminated water, because while it's impossible to pretreat for every harmful chemical, there must be more emphasis on detecting unexpected contaminants, he said.

“When you get a large spill of chemicals that aren't supposed to be there, that is a soft underbelly,” Salzman said in a telephone interview. “It's a real challenge. In a world where public budgets are tight, you've got to make choices.”

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